

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2085

Chapter 354, Laws of 2005

59th Legislature
2005 Regular Session

WASTE TIRES

EFFECTIVE DATE: 7/01/05

Passed by the House April 19, 2005
Yeas 75 Nays 20

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 13, 2005
Yeas 41 Nays 4

BRAD OWEN

President of the Senate

Approved May 10, 2005.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2085** as passed by the House of Representatives and the Senate on the dates hereon set forth.

RICHARD NAFZIGER

Chief Clerk

FILED

May 10, 2005 - 9:13 a.m.

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2085

AS AMENDED BY THE SENATE

Passed Legislature - 2005 Regular Session

State of Washington 59th Legislature 2005 Regular Session

By House Committee on Transportation (originally sponsored by Representatives Simpson, Hankins, Murray, Haler, Morris, Ormsby, B. Sullivan, Dickerson, Chase, Wood and Ericks)

READ FIRST TIME 03/07/05.

1 AN ACT Relating to cleanup of waste tires; amending RCW 70.95.510,
2 70.95.530, 70.95.555, and 70.95.560; adding new sections to chapter
3 70.95 RCW; creating a new section; prescribing penalties; making
4 appropriations; providing an effective date; and declaring an
5 emergency.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** The legislature finds that discarded tires
8 in unauthorized dump sites pose a health and safety risk to the public.
9 Many of these tire piles have been in existence for a significant
10 amount of time and are a continuing challenge to state and local
11 officials responsible for cleaning up unauthorized dump sites and
12 preventing further accumulation of waste tires. Therefore it is the
13 intent of the legislature to document the extent of the problem, create
14 and fund an effective program to eliminate unauthorized tire piles, and
15 minimize potential future problems and costs.

16 **Sec. 2.** RCW 70.95.510 and 1989 c 431 s 92 are each amended to read
17 as follows:

18 (1) There is levied a one dollar per tire fee on the retail sale of

1 new replacement vehicle tires for a period of five years, beginning
2 (~~October 1, 1989~~) July 1, 2005. The fee imposed in this section
3 shall be paid by the buyer to the seller, and each seller shall collect
4 from the buyer the full amount of the fee. The fee collected from the
5 buyer by the seller less the ten percent amount retained by the seller
6 as provided in RCW 70.95.535(1) shall be paid to the department of
7 revenue in accordance with RCW 82.32.045.

8 (2) The department of revenue shall incorporate into the agency's
9 regular audit cycle a reconciliation of the number of tires sold and
10 the amount of revenue collected by the businesses selling new
11 replacement vehicle tires at retail. The department of revenue shall
12 collect on the business excise tax return from the businesses selling
13 new replacement vehicle tires at retail:

14 (a) The number of tires sold; and

15 (b) The fee levied in this section.

16 (3) All other applicable provisions of chapter 82.32 RCW have full
17 force and application with respect to the fee imposed under this
18 section. The department of revenue shall administer this section.

19 (4) For the purposes of this section, "new replacement vehicle
20 tires" means tires that are newly manufactured for vehicle purposes and
21 does not include retreaded vehicle tires.

22 NEW SECTION. Sec. 3. A new section is added to chapter 70.95 RCW
23 to read as follows:

24 The waste tire removal account is created in the state treasury.
25 All receipts from tire fees imposed under RCW 70.95.510 must be
26 deposited in the account. Moneys in the account may be spent only
27 after appropriation. Expenditures from the account may be used for the
28 cleanup of unauthorized waste tire piles and measures that prevent
29 future accumulation of unauthorized waste tire piles.

30 NEW SECTION. Sec. 4. A new section is added to chapter 70.95 RCW
31 to read as follows:

32 (1) The fee required by this chapter, to be collected by the
33 seller, shall be deemed to be held in trust by the seller until paid to
34 the department of revenue, and any seller who appropriates or converts
35 the fee collected to his or her own use or to any use other than the

1 payment of the fee to the extent that the money required to be
2 collected is not available for payment on the due date as prescribed in
3 this chapter is guilty of a gross misdemeanor.

4 (2) In case any seller fails to collect the fee imposed in this
5 chapter or, having collected the fee, fails to pay it to the department
6 of revenue in the manner prescribed by this chapter, whether such
7 failure is the result of his or her own acts or the result of acts or
8 conditions beyond his or her control, he or she shall, nevertheless, be
9 personally liable to the state for the amount of the fee.

10 (3) The amount of the fee, until paid by the buyer to the seller or
11 to the department of revenue, shall constitute a debt from the buyer to
12 the seller and any seller who fails or refuses to collect the fee as
13 required with intent to violate the provisions of this chapter or to
14 gain some advantage or benefit, either direct or indirect, and any
15 buyer who refuses to pay any fee due under this chapter is guilty of a
16 misdemeanor.

17 **Sec. 5.** RCW 70.95.530 and 1988 c 250 s 1 are each amended to read
18 as follows:

19 (1) Moneys in the waste tire removal account may be appropriated to
20 the department of ecology:

21 ~~((1))~~ (a) To provide for funding to state and local governments
22 for the removal of discarded vehicle tires from unauthorized tire dump
23 sites;

24 ~~((2))~~ (b) To accomplish the other purposes of RCW
25 70.95.020~~((5))~~ as they relate to waste tire cleanup under this
26 chapter; and

27 ~~((3) To fund the study authorized in section 2, chapter 250, Laws~~
28 ~~of 1988))~~ (c) To conduct a study of existing tire cleanup sites. The
29 office of financial management shall oversee the study process and
30 approve the completed study. The completed study shall be delivered to
31 the house of representatives and senate transportation committees by
32 November 15, 2005. In conducting the study, the department shall
33 consult on a regular basis with interested parties. The following
34 identified elements at a minimum shall be included in the completed
35 study:

36 (i) Identification of existing tire cleanup sites in the state of
37 Washington;

1 (ii) The estimated number of tires in each tire cleanup site;
2 (iii) A map identifying the location of each one of the tire
3 cleanup sites;
4 (iv) A photograph of each one of the tire cleanup sites;
5 (v) The estimated cost for cleanup of each tire site by cost
6 component;
7 (vi) The estimated reimbursement of costs to be recovered from
8 persons or entities that created or have responsibility for the tire
9 cleanup site;
10 (vii) Identification of the type of reimbursements for recovery by
11 each of the tire cleanup sites;
12 (viii) The estimated time frame to begin the cleanup project and
13 the estimated completion date for each tire cleanup site;
14 (ix) An assessment of local government functions relating to
15 unauthorized tire piles, including cleanup, enforcement, and public
16 health;
17 (x) Identification of needs in the areas in (c)(ix) of this
18 subsection for each one of the counties; and
19 (xi) A statewide cleanup plan based on multiple funding options
20 between twenty cents and sixty cents for each new tire sold at retail
21 in the state starting on July 1, 2005. The plan shall include the
22 estimated time frame to begin each of the tire cleanup sites and the
23 estimated completion date for each one of the sites. In addition, the
24 plan must include a process to be followed in selecting entities to
25 perform the tire site cleanups. The 2006 legislature shall determine
26 the final distribution of the tire cleanup fee and the appropriations
27 for this statewide tire cleanup plan.
28 (2) In spending funds in the account under this section, the
29 department of ecology shall identify communities with the most severe
30 problems with waste tires and provide funds first to those communities
31 to remove accumulations of waste tires.
32 (3) Immediately after the effective date of this section, the
33 department of ecology shall initiate a pilot project in a city with a
34 population between three and four thousand within a county with a
35 population less than twenty thousand to contract to clean up a formerly
36 licensed tire pile in existence for ten or more years. To begin the
37 project, the department shall seek to use financial assurance funds set
38 aside for clean up of the tire pile. For purposes of this subsection,

1 population figures are the official 2004 population as estimated by the
2 office of financial management for purposes of state revenue
3 allocation.

4 **Sec. 6.** RCW 70.95.555 and 1988 c 250 s 4 are each amended to read
5 as follows:

6 Any person engaged in the business of transporting or storing waste
7 tires shall be licensed by the department. To obtain a license, each
8 applicant must:

9 (1) Provide assurances that the applicant is in compliance with
10 this chapter and the rules regarding waste tire storage and
11 transportation; (~~and~~)

12 (2) Accept liability for and authorize the department to recover
13 any costs incurred in any cleanup of waste tires transported or newly
14 stored by the applicant in violation of this section, or RCW 70.95.560
15 or section 4 or 8 of this act, or rules adopted thereunder, after the
16 effective date of this section;

17 (3) Until January 1, 2006, post a bond in the sum of ten thousand
18 dollars in favor of the state of Washington for waste tires transported
19 or stored before the effective date of this section. In lieu of the
20 bond, the applicant may submit financial assurances acceptable to the
21 department;

22 (4) After January 1, 2006, for waste tires transported or stored
23 before the effective date of this section, or for waste tires
24 transported or stored after the effective date of this section, post a
25 bond in an amount to be determined by the department sufficient to
26 cover the liability for the cost of cleanup of the transported or
27 stored waste tires, in favor of the state of Washington. In lieu of
28 the bond, the applicant may submit financial assurances acceptable to
29 the department;

30 (5) Be registered in the state of Washington as a business and be
31 in compliance with all state laws, rules, and local ordinances;

32 (6) Have a federal tax identification number and be in compliance
33 with all applicable federal codes and regulations; and

34 (7) Report annually to the department the amount of tires
35 transported and their disposition. Failure to report shall result in
36 revocation of the license.

1 **Sec. 7.** RCW 70.95.560 and 1989 c 431 s 95 are each amended to read
2 as follows:

3 (1) Any person who transports or stores waste tires without a
4 license in violation of RCW 70.95.555 shall be guilty of a gross
5 misdemeanor and upon conviction shall be punished under RCW
6 9A.20.021(2).

7 (2) Any person who transports or stores waste tires without a
8 license in violation of RCW 70.95.555 is liable for the costs of
9 cleanup of any and all waste tires transported or stored. This
10 subsection does not apply to the storage of waste tires when the
11 storage of the tires occurred before the effective date of this section
12 and the storage was licensed in accordance with RCW 70.95.555 at the
13 time the tires were stored.

14 NEW SECTION. **Sec. 8.** A new section is added to chapter 70.95 RCW
15 to read as follows:

16 No person or business, having documented proof that it legally
17 transferred possession of waste tires to a validly licensed transporter
18 or storer of waste tires or to a validly permitted recycler, has any
19 further liability related to the waste tires legally transferred.

20 NEW SECTION. **Sec. 9.** The sum of one hundred fifty thousand
21 dollars, or as much thereof as may be necessary, is appropriated for
22 the fiscal year ending June 30, 2006, from the waste tire removal
23 account to the office of financial management to reimburse the
24 department of ecology to complete the study in section 5 of this act.

25 NEW SECTION. **Sec. 10.** The sum of forty thousand dollars, or as
26 much thereof as may be necessary, is appropriated for the biennium
27 ending June 30, 2007, from the waste tire removal account to the
28 department of revenue for administration of the fee established in
29 section 2 of this act.

30 NEW SECTION. **Sec. 11.** If any provision of this act or its
31 application to any person or circumstance is held invalid, the
32 remainder of the act or the application of the provision to other
33 persons or circumstances is not affected.

1 NEW SECTION. **Sec. 12.** This act is necessary for the immediate
2 preservation of the public peace, health, or safety, or support of the
3 state government and its existing public institutions, and takes effect
4 July 1, 2005.

 Passed by the House April 19, 2005.

 Passed by the Senate April 13, 2005.

 Approved by the Governor May 10, 2005.

 Filed in Office of Secretary of State May 10, 2005.